

THE
PARLIAMENTARY OPINIONS
OF
LORD MANSFIELD, SIR DUDLEY
RYDER, MR. CHARLES YORKE,
MR. WILLIAM BECKFORD, &c.
ON
THE CHOICE OF
A
REGENCY OR REGENT;
WITH
OTHER DECISIONS
ON
THAT INTERESTING QUESTION.

MURPHY
(written)
leaf of
Mansfield
✓

L O N D O N :

Printed for JOHN STOCKDALE, opposite Burlington-House,
Piccadilly.

M.DCC.LXXXVIII.

[Price One Shilling and Six Pence.]



[Price One Shilling and Six Pence]

ADVERTISEMENT.

THE present is a melancholy crisis, which has seldom, perhaps never, happened; and the law, supposing that an event, so much and so universally deplored could not happen, has made no provision for so great a deficiency as the want of a Supreme Magistrate.

It belongs to the Parliament alone, actuated by a true sense of an urgent necessity, and supported by the public voice, to find and establish some proper expedient for carrying into execution the executive powers of government, during the King's severe indisposition.

Various proposals have been submitted to the Public:—some propose a REGENCY; and others a REGENT. As an appeal is now made to ALL, the EDITOR of the following OPINIONS and PROCEEDINGS thought he did a
real

real service to this unhappy country, when he submitted to every one's perusal what seemed likely to assist every one's judgement. It becomes not the Editor to offer any sentiment of his own. He will only pledge himself, that the **OPINIONS** and **PROCEEDINGS** contained in the following Sheets are absolutely genuine.

Dec. 1, 1788.



T H E

PARLIAMENTARY OPINIONS,

&c.

*Message from his MAJESTY to both Houses of
Parliament, April 26, 1751.*

GEORGE R.

HIS Majesty, having it entirely at heart to secure the future welfare and happiness of his people, has maturely considered, that nothing can conduce so much (under the protection of the divine Providence) to the preservation of the Protestant succession in his Royal Family, and the support of the religion, laws, and liberties of these kingdoms, (which have been always most dear to him) as the making proper provisions for the care and tuition of the person of his successor, and for the regular administration of the government, in case such successor should be of tender years; by means whereof their safety and princely education

B

may

may be secured, the public peace and good order maintained, and the strength and glory of the crown of Great Britain suffer no diminution : for these reasons, his Majesty, out of his paternal affection and tenderness for his Royal Family, and for all his faithful subjects, earnestly recommends it to both Houses of Parliament, to take this weighty affair into their most serious deliberation ; and proposes to their consideration, that, when the imperial crown of these realms shall descend to any of the issue of his son, the late Prince of Wales, being under the age of eighteen years, the Princess Dowager of Wales, their mother, should be guardian of the person of such successor, and Regent of these kingdoms, until they shall attain such age ; with such powers, and limitations, as shall appear necessary and expedient for these important purposes.

The humble ADDRESS of the Lords Spiritual and Temporal, and Commons, in Parliament assembled, April 26, 1751.

“ WE your Majesty’s most dutiful and loyal subjects, the Lords Spiritual and Temporal, and Commons, in Parliament assembled, approach your Royal Throne, with hearts filled, at the same time, with the deepest sense of gratitude to your Majesty, and with the most serious and anxious concern for the future welfare of our country.



“ To

“ To return your Majesty our thanks for your most gracious Message, falls infinitely short of those sentiments, with which the subject of it inspires us. It excites in us the most sensible feeling of all those blessings, which we have enjoyed, during your auspicious and glorious reign ; of the mildness and benignity of your government ; and of that constant protection, which your Majesty has always extended to our religion, laws, and liberties ; which you have demonstrated by your conduct, as well as declared by your royal words, to be most dear to you. Happy would it be for all your faithful subjects, if heaven, in mercy to these kingdoms, would graciously permit a reign, so distinguished with every mark of goodness, that can endear a British Monarch to his people, to be prolonged beyond the ordinary date. To look forward to its period, anticipates a grief, which no words can express. Your Majesty's greatness of mind, shewn in your Message, has called upon us, and set us the example, to enter into such considerations, as the high importance of the occasion requires.

“ Not content with being the great instrument of our happiness, during your own time, your Majesty has pointed out to us a generous concern to provide for the continuance of that happiness (as far as human foresight can do) after God shall have deprived us of the inestimable blessing of

your immediate care. In return for this paternal goodness, permit us to assure your Majesty that we will lose no time in taking into our consideration the weighty affair laid before us in your Message.

“ We are truly sensible of the high and eminent qualities of her Royal Highness the Princess Dowager of Wales ; and we look upon what your Majesty has been graciously pleased to propose to our consideration, as the result of your wisdom and tender concern for your Royal Family, and the interests of these kingdoms ; and we shall have the most dutiful regard of what your Majesty has been pleased so wisely to recommend.

“ In our deliberations on this important subject, we shall think it our duty, as well as our essential interest, to have the strictest and most zealous attention to the preservation of the Protestant succession, as settled by law, in your Royal Family ; the numerous hopeful branches whereof, formed by your instruction, and led by your example, we look upon as so many pledges of the security of our religious and civil rights to future generations.

“ May it please the divine Providence to grant your Majesty such confirmed health, and length of days, as may render those provisions, which your wisdom has suggested to us on this occasion, unnecessary in the event ; that we may very long enjoy

enjoy the benefits of your gracious government ;
and your Majesty the dutiful and affectionate returns of a most obliged, loyal, and grateful people."

His Majesty's most Gracious Answer.

" My Lords and Gentlemen,

" I RETURN you my hearty thanks for this
" very dutiful and affectionate Address. The zeal
" you express for me and my family, and the
" sense you shew of my care and concern for the
" interest of my people, is very agreeable to me."

THIS bill was sent from the Lords on the 13th day of May, and after being recommended by Mr. Pelham, it was read clause by clause to the following effect :

If the crown shall descend to any of the children of his late Royal Highness Frederic, Prince of Wales, the Princess, his Dowager, shall be Regent of the kingdom, and guardian of such child, till it shall arrive at the age of eighteen years.

All

All acts of regal power, done otherwise than by her Royal Highness, during her Regency, shall be void.

There shall be a Council of Regency to assist her Royal Highness, consisting of the Duke of Cumberland, and such persons as for the time being shall be Archbishop of Canterbury, Lord Chancellor, Lord Treasurer, Lord President, of the Council, Lord Privy Seal, Lord High Admiral, the Principal Secretaries of State, and Lord Chief Justice of the King's Bench, together with any other four whom his present Majesty shall appoint.

The Council shall meet and sit as her Royal Highness shall direct; any five, but not a less number, shall act, and of this Council the Duke of Cumberland shall be chief or head.

The Princess shall take an oath to execute the office of Regent, and the Members of the Council to execute their respective offices, according to this act.

The Regent and Council shall qualify themselves as for offices of trust.

Upon the demise of the present King, the Privy Council shall meet, and cause his successor to be proclaimed, under the penalty of high treason.

The

The consent of the majority of five or more of the Council shall be necessary in all creations, pardons, gifts, grants, dispositions, instructions, orders, or authorities.

The Regent shall not make war or peace, or ratify treaties, prorogue, adjourn, or dissolve any parliament, without the consent of the Council, nor give the royal assent to any act for altering the succession.

The Regent shall not remove the officers of the crown, who, by virtue of their offices, are of the Council, from such offices, without the consent of the majority of the whole Council, or the address of Parliament.

Vacancies by death or removal to be filled up by the Regent in two months, with the consent of the major part of her Council, and not otherwise.

The Parliament in being at the descent of the crown to a minor, if no Parliament then in being, the preceding Parliament shall continue three years, except the minor be sooner of age, or the Parliament be dissolved by the Regent with consent of Council.

If the minor marries without the consent of the Regent and Council, such marriage shall be void, and all persons concerned guilty of high treason.

If on any question the division of the Council be equal, the regent has the casting vote.

All commissions, letters patent, &c. to change the order of government established by this act, shall be void, and all persons concerned incur a præmunire.

The act of 28 Hen. VIII. and 1st of Edw. VI. shall be repealed.

THE OPINION OF W. BECKFORD, Esq.

On the Report of the Regency Bill, May 20.

MR. SPEAKER,

I HAVE been very attentive to every argument, urged by several learned gentlemen, on this grand question; and I must confess, I was greatly surprized to hear such strange doctrines advanced by those gentlemen; doctrines, in my poor opinion, not founded on the principles of our constitution; doctrines, not founded on historical facts: and I was very ready and willing to have given an answer by way of reply, and was upon
my

my legs more than once to have done it, had not men of greater eloquence and abilities stood up, to whose superior capacities it was but becoming in me to submit, although I did not then, or ever will, allow myself inferior to any in zeal and love for the liberties of the constitution.

It was urged as a fundamental reason for bringing in this bill, [Ryder] “ That all the miseries and misfortunes which have attended this kingdom, during minorities, were owing to the neglect of establishing a proper plan of government for a minority, before the demise of the crown; and therefore, that it was absolutely necessary to chalk out such a plan as might stand an eternal precedent for future ages.”—It was then also laid down as a maxim, that all their mischiefs and disturbances had arisen from the want of a proper Council of Regency, not removeable at the will of the Regent.

And it was farther alledged, and strongly insisted upon, by a learned gentleman, that the difficulties and inconveniences which occurred during the last minority that happened in this kingdom (namely in the minority of Edward VI.) arose from the Earl of Hertford's (who had the King's person in his hands) usurping the sole power of the Regency, and destroying the power

C

of

of the Council, contrary to law, and contrary to the will of Henry VIII.

And therefore that this bill was intended to prevent the like evil for the future, by establishing a Council of Regency, not removeable at the will and pleasure of the Regent; and appointing the penalties of the statute of præmunire to be inflicted on those persons, who shall, by intrigues and cabals, endeavour to remove or disturb this Council.

In answer to which I say, that the evils which arose during this minority, were not owing to the great power unlawfully usurped by the Protector, (who shewed himself sincerely attached by interest and inclination to the good of the King, and the liberties of the people) but to the intrigues and cabals of that Council, which had been appointed by the will of Henry VIII. pursuant to an Act of Parliament, partly on account of religion, but chiefly from the execrable lust of power and dominion.

So that, in the end, we see seventeen of this Council, which is alledged by the learned gentleman to be, by usurpation, entirely under the influence and direction of the Protector, and removeable at his will and pleasure; I say, Sir, we see

see seventeen of this very Council exhibiting articles of impeachment against this great Protector, and (without power, as is alledged) bringing him, armed with power, who was uncle to the King, to the scaffold, without any rebellion, or force of arms, and making him suffer the pains of death for felony.

From this example therefore, thus fairly stated, I think it evidently appears, that the evils and disturbances which attended the minority of Edward VI. did not proceed from the want of a Council of Regency, made by law irremoveable, but from the wicked and ambitious views of ill designing counsellors, who had too much power in their hands, and yet were grasping at more, though at the expence of the King and kingdom.

And I am certain, if gentlemen will look carefully into the history of all the minorities that have happened in this kingdom since the conquest, they will find all the disturbances of those minorities to have arisen entirely and solely from the divisions and intrigues of the great counsellors, and great men, all proceeding from the detestable views of power, dominion, and resentment; from the want of having the kingly power lodged in a single hand, which single hand, thus armed, might have checked their insolence, and kept their ambition in due bounds.

And, for my own part, I do verily believe, that the same cause will ever produce the same effect ; and that the greatest confusion will arise from this Council of Regency, if ever we should have the misfortune to lose his present Majesty, and his successor should be a minor.

Another learned gentleman was pleased to say, [Murray] “ that this plan of government was the best calculated for the good of the King and of the country, of any that was ever thought of.— For, without such a plan, upon the demise of the Crown, any bold, ambitious, enterprizing man, getting possession of the person of the minor King, and of the great seal of the kingdom, would absolutely have the power of the monarchy in his hands, and might execute all acts of regality.”—

Strange doctrine this ! and more adapted to the principles and maxims of a Turkish, or despotic Eastern Monarch, than to a free British Government. In those slavish governments whoever can get the great seal in his power, has the command of the empire. For there Monarchs are mere pageants of state, kept from the eyes of the people ; and any puppet of show, cloathed with the ensigns of royalty, is as much a King in the eyes of such despicable slaves, as the best and bravest Monarch.

But

But are we thus miserably constituted ? thus liable to have our Monarch stole from us by any such rogue ? No, Sir, God be thanked, we are not. The Monarch of Great Britain forms only one third part of our constitution, and his power is limited and circumscribed, and subject to the laws and customs of the realm. And if any vile miscreant was to steal our minor King from us, authority, thus derived, would be little regarded, the Parliament would soon bring such an offender to condign punishment.

The learned gentleman was pleased to allow [Murray] “ that a Co-regency was a bad form of government, but that proper checks and limitations were absolutely necessary to be laid on a single Regent.”

I most heartily agree with the learned gentleman, that all Co-regencies tend to confusion ; and, for that reason, I am against the Council of Kegency, constituted as it now is by this bill ; it is, in my opinion, an absolute Co-regency, and divides royalty, and the kingly power of these kingdoms in such a manner, as our forefathers never knew, and I wish it may not prove destructive to the Regents themselves.

I am certain, that neither secrecy nor dispatch, which are so necessary in the conduct of all great
affairs

affairs of state, can be obtained by such a Council ; that it may give such an obstruction to business, and so clog the wheels of government, that the worst consequences may be dreaded.

The learned gentleman was pleased to say, “ that in those governments, where the Prince is absolute, and can appoint whom he pleases for Regent, such Princes never did appoint a sole Regent ; and the example of Lewis XIV. was quoted, who, although a Prince, vested with absolute power, yet would not appoint a sole Regent.”

But certainly this example was not well considered by the learned gentleman. The Monarch, in his dotage, appointed his bastard son Regent, and procured such appointment to be confirmed and registered in the Parliament of Paris, contrary to the usage and customs of that kingdom, and in prejudice to the right of the lawful Regent, against whom, I apprehend, the old King might have very material objections ; such as the great capacity, and ambitious views of the Duke of Orleans, which might endanger the safety of the minor King.—But did this plan of Regency ever take place ? Never. No sooner was the old King dead, than all those acts, obtained and confirmed by parliament, were rescinded and reversed, and the Duke of Orleans, the right and lawful Regent, is appointed and confirmed by the same Parliament.

— Moreover,

Moreover, although the laws of France do not allow of the government of a female in her own right, yet they allow the absolute regal power to be exercised by a Queen-mother, during the minority of her son. This was the case in the two last minorities, that of Lewis XIII. under Maria de Medicis, and of Lewis XIV. under Anna of Austria.

All the learned gentlemen who have spoke for this bill, [Ryder, Murray, and Morton] seem excessively cautious and anxious not to make a precedent by constituting a sole regent. They all allow that the present Princess of Wales is in every respect qualified to fill this high trust, and that it is impossible for her to have any views destructive to the young Monarch or the constitution.—But, say they, a bad Regent may be appointed from this precedent; one who may have wicked, ambitious, and interested views, by which the safety of King and kingdom may be endangered.

But surely, as every future parliament has the power, so they will have the wisdom to consider maturely every circumstance of time and person, and not rashly appoint an improper Regent. Nay, if, contrary to their expectation, the person thus appointed should turn out a bad Regent, such Regent will be under the controul of Parliament, in like manner as a King; for, God be thanked, the law

law and constitution have provided sufficient checks against a bad Regent King, and a bad Regent.

One learned gentleman was pleased to say, that if you were to appoint this unexceptionable Princess sole Regent, such appointment would be an irrefragable precedent for future times, [Mr. Morton] and we might again be troubled and cursed with a wicked, lewd, Queen-mother, and another Mortimer for her gallant. But, Sir, if that should be the case (of which I do not see the least probability) I have no doubt, the same fate will attend such Regent and her gallant, as attended the wife of Edward II. and her paramour Mortimer.

But, Sir, it is very strange doctrine, to say, that precedents are irrefragable: Sir, the Parliament is not bound by such precedents, they may alter, they have altered, they will alter this precedent, whenever the necessity of the times, and circumstances of the person shall require it.

Another learned gentleman has insisted in this debate, that Councils of Regency are founded on the maxims and principles of the constitution, and that every delegated power, according to that constitution, should be limited; and he likewise asserted, that these maxims were proved by precedents; [York] and the precedent on which the

great

great stress is laid, to prove the assertion, is the precedent in the time of Henry III. on whose minority, although a Regent was appointed, yet the great offices of state, the great seal, and the care of the King's castles, were entrusted in the hands of others.

But, give me leave to observe, that neither this nor any other precedent, that has not been quoted on the occasion, proves the assertion.

Gentlemen, when they quote precedents, ought not to distort them, to make them answer a particular purpose, but should consider and weigh well the circumstances of the times, and of the persons; and, if that had been done, this precedent would not have been insisted upon.

The true case stands thus : when the great Earl of Pembroke was appointed Regent of the kingdom, in the minority of Henry III. under certain limitations and restrictions, the times and the persons were exceedingly different from what they are at present.

Henry III. was an infant of nine years of age when his father died, at the time of whose death, the greatest part of the kingdom was in rebellion; and the dauphin of France, in conjunction with the English Barons, was in possession of the capital

tal of the kingdom. The father of the young King was a most infamous and wicked Prince, and had, by every art, sought to deprive the Barons and people of England of their liberty. They, like brave and wise men, defended the blessings of freedom with the utmost resolution and fortitude, and, at the expence of their blood, procured us that liberty we now enjoy.—These were the men that obtained the Magna Charta, the bulwark of your present constitution. These Barons, when they found themselves too weak to defend their liberties without foreign assistance, called in the French to their aid, and thus matters stood when King John died. But no sooner was the father dead, than all the resentment to his infant son vanished. The brave and good Earl of Pembroke produced his Royal Ward to the assembly of Barons, and, by a very short but pathetic speech, turned every man present to his allegiance, and he is chosen by the Great Lord, guardian of the person of the King, and Regent of the kingdom; (but I do not find or believe there is any mention made of a Council of Regency in this case) and every thing went on well so long as the Regent lived. The French were driven out of the kingdom, and peace was restored.

But, Sir, I will suppose a Council of the Regency was then appointed, and the power of the Regent exceedingly limited and circumscribed, by having
the

the great offices of the realm, the great seal, and the King's castles entrusted in other hands, in the hands of the Great Lords and Barons of the realm.

It might be, and certainly was, very good policy in those times, and yet may be, and certainly is, very bad policy at present. In those times the Barons were just emerged from a cruel and dangerous war, for the defence of their just rights and privileges, against the usurpation of a most profligate and audacious King; they were therefore, with good reason, unwilling to trust the great offices of the Crown, and the custody of the castles, to any single person, (although a very good man) acting for, and in behalf of the Crown, lest the means and opportunity might be given of repeating the same bloody tragedy over again.

But what resemblance, in God's name, has the case of Henry III. with the present? And what occasion for the like precaution?

At present we have a minor prince, the son of a gentle, humane father, universally beloved when living, universally regretted when dead; whereas Hen. III. was the son of a father universally hated and detested living, and lamented by no man when dead. The mother of this young prince is so much in the good esteem of the whole nation, that I

never heard that malevolent fame ever gave her one bad quality ; so that no Princess ever seemed fitter for government. Moreover, she can have no interest but the preservation of her children and family ; and, what is more, the laws of this kingdom allow the scepter of this realm to be swayed by the hands of women ; and they have governed to the honour and glory of this nation.

What policy therefore can it be thus to divide the regal authority of this kingdom by such unnecessary and dangerous limitations and restrictions, without one earthly reason given for so doing, but for fear it may prove a precedent for setting up a bad Regent in times to come ?

Another gentleman [H. Pelham] in the course of this debate was pleased to say, “ That by this bill counsel and advice was provided for the Regent according to the constitution, and that by it the dignity and authority of the Crown was supported.”—But surely in a government so framed as ours is, the counsel and advice of ten or fourteen men cannot be wanting, when the grand Council of the nation and the Privy Council are provided for this purpose. But, what is more, the Regent will have the advantage of the counsel and advice of those great personages from the offices themselves, without any appointment with new power.

More.

Moreover, to say the dignity and authority of the Crown will be supported by such a Council, and that no inconveniences can arise from such an appointment, is, I fear, saying too much. Sir, the dignity, the authority, the majesty of the King and of the kingdom, resides in the King and the two Houses of Parliament, who are the grand Council of the nation; and not in a junto of a Council of Regency. Sir, I have great regard for the great personages that fill the great offices nominated in this bill, and I believe them to be very uncorrupt, able, and willing to execute the high trust reposed in them by the bill; but, Sir, although they are uncorrupt, they are not immortal; they may die, they may be removed, they may resign; and to them may succeed wicked and ambitious men, men who may have no other views but those of ambition and avarice, and may have the execrable lust of power and dominion strongly impressed in their minds. I say, if such men should be once established in this Council of Regency (and such may be established) not removable but by an address of both Houses of Parliament (whereas a Judge of the realm may be removed by the address of either)—I say, such removal will be rendered exceedingly difficult. And if such men should, by an artful distribution of perquisites and emoluments to one, feeding another with airy and glittering hopes, and threatening others, procure an undue influence in both or
either

either House of Parliament, what mischief and confusion may not be expected from such a government ?

And, give me leave to say, these doubts, fears, and jealousies do not arise from the warmth and luxuriance of a heated fancy and imagination, (as was suggested by certain gentlemen on the other side) but from the examples of former minorities; the dreadful mischiefs and calamities of those minorities did arise from the ambition, avarice, and dissention of the great Counsellors, who were entrusted with too much power; all which might, and would have been prevented, if the regal power had been vested in one proper executive hand, and not divided amongst so many. For certainly no kingly government can subsist for any time, when the power of monarchy is divided amongst any number of men, instead of being lodged in one single hand, which only can give vigour and dispatch to every act of government.

As to the clause of continuing the Parliament for three years, nothing has been said to convince me that it is either necessary or expedient, to prolong it beyond the time limited by law. It is a measure, at no time eligible, in the present time it may be dangerous.

It

It has been advanced, [Hilsborough] “ that Parliaments have a power and right to prolong their duration, and that the *salus populi* frequently requires it.” But I do absolutely deny that a Parliament has a legal power and right to prolong the time limited by law, without the consent of the electors, or people who sent them to Parliament, and whose representatives they are ; and I do say, and do insist upon it, that whenever Parliaments do take upon themselves to prolong the time of their duration, such prolongation is an infringement of the liberties of the electors in a most essential part, and tends to destroy that freedom which they were chosen to defend.

For liberty never was, nor ever will be, preserved, unless those who have the power of the people delegated to them be frequently removed. It was by the frequent rotation and change of magistracy in all countries of the world, that freedom and independency had been preserved.—It is upon this principle we find the people of England at all times crying out for frequent Parliaments : And I am sure, if ever frequent Parliaments were necessary, they are essentially so in the present times.

But, say gentlemen, the *salus populi* makes this prolongation necessary in a minority, when the hands of government are weak, and ought to be strengthened before it is exposed to the cabals, factions,

factions, and disturbances that constantly attend the calling of a new Parliament: and then rebellions at home, invasions from abroad, and even plagues are supposed in imagination to make such a measure necessary.

But, Sir, as there is not one single circumstance now existing to authorise and confirm such suspicions, as the present ministry successfully and peaceably dissolved a Parliament, *flagrante bello*, and while disturbances were in the kingdom, I hope no such attack may be made on the liberties of a free people, unless the necessity be made appear from facts, and not from the supposition of fancy.

As for my own part, I can scarcely admit the possibility of any disturbance, either at home, or from abroad. A young Prince, amiable in his person and manners; son of a father beloved by the people, born amongst us, one who has never done an act that has offended any single person living, peace and tranquillity abroad; and should any disturbances, or any unforeseen accidents arise, there are six months after the demise of the Crown, provided by law, to consider whether it be necessary to prolong the Parliament: whereas by rashly coming into this measure, you will give room to the people without doors to suspect that there is a design in this very Council of Regency, to establish and perpetuate their own power by the authority of the
parlia-

liament in being ; which, to be sure, in the main, is a very groundless surmise : because the noble persons who fill the great offices, nominated by this bill, are men who have shewn themselves not the least ambitious, or desirous of power ; and the present Parliament is certainly composed of very uncorrupt members, who are in no wise under any influence, but have, God be thanked ! all honest hearts, and clean hands. But, Sir, we may all degenerate, and therefore we ought not to trust ourselves, lest degeneracy should arise.

Upon the whole, I do hope and trust that this bill will be recommitted, in order to make a good and constitutional bill of it ; for I do solemnly declare that, in my opinion, the plan of the bill, as it now stands worded, seems calculated to establish an oligarchy, the worst government in the world.

The principal objections to the restrictions of the power of the Regent in this bill have arisen from the confessed public and private virtues of her Royal Highness, and the necessary and inseparable connection of her interest with that of her son : but, allowing these virtues and this connection, the restrictions in the bill were insisted on as necessary, for the following reasons :

E 1st. This

1st. This bill is to be considered as a precedent for future times, and no power ought to be intrusted with the virtuous, which would become dangerous, when, by a natural succession of events, it shall devolve upon the vicious; and for this reason our ancestors have chosen to transmit down to us, rather a limited than an absolute monarchy, though they were not ignorant that a power to do good was limited by the same regulations which restrained a power to do ill, and that an absolute monarchy was the most eligible form of government, if it were possible to insure a succession of Princes, whose sagacity could discover the public interest, and whose virtue would pursue it. It has indeed been objected, that there is a degree of arrogance in supposing that the present bill, which has been planned without any regard to former precedents, will be regarded as an inviolable precedent in times to come; but however despicable the present administration may be represented, and and however vigilant, faithful, and magnanimous future parliaments may be imagined, it cannot be denied, that if hereafter a person of great influence, perhaps a presumptive heir to the Crown, should produce a precedent of unlimited power, which had been attended with honour to the regent, and felicity to the people, it would be very difficult to prevent its being followed by a majority in both houses of Parliament; and that the regency of her Royal Highness, if she should be invested with

with unlimited power, would be honourable and happy cannot be doubted, because her abilities to execute so important a trust are universally acknowledged. It will appear yet more probable, that this precedent would be followed, if it be considered, that if, upon the next emergency, the person to be appointed regent could not safely be intrusted with sovereign power, this could never be given as a reason for departing from a precedent in his favour; it could not be said that, though the power of the Princess Dowager of Wales was not limited, yet the shackles of restriction are now necessary to confine the hands of tyranny, and shorten the strides of ambition; and as it is not easy to conceive by what other reasons an opposition could be supported, there is the greatest probability that the precedent would be followed of course.

2. As a Minority has often produced confusion and calamity, it is fit, that in such an exigency, some general law should mediately take place; and surely the public tranquillity, and the right of the young Prince will be more effectually secured, if it be established as a general rule, that a Regent be appointed, together with a council, which shall at once assist and restrain, than that a sole Regent be immediately vested with sovereign authority; and though this bill has been said to be unprecedented, it is perhaps only so, in that the Queen-

mother is appointed Regent ; for the establishment of a Council of Regency has been the practice of our ancestors ever since the conquest, exceptin the case of the Earl of Pembroke, during the minority of Henry III. and Richard Duke of Gloucester, in the minority of Edward V. When the Earl of Pembroke was appointed sole Regent, the nation was in such a state of danger and confusion, that it became necessary to deviate from the general rule, however prudent ; in the case of Richard, a sole Regency, with sovereign authority, was rather usurped, than appointed, and the use he made of his power is the strongest reason why it should not be suffered to come into the hands of another.

3. It has been objected to a Council of Regency, that it will expose us to the confusion and misery of contending factions, each of which will have no other view than the exalting or enriching itself : and thus the business of the nation will be neglected, and possibly its interest betrayed, either by the prevailing party for hire, or by the inferior in revenge. But it will be universally confessed, that faction is less likely to overturn the constitution, and to perpetrate irreparable wrong, than usurpation ; it is therefore of more moment to guard against usurpation than faction : nor are these fears of faction, and the dreadful effects that they will produce, justified by experience, or founded upon reason ; for during the minorities of Edward III.
and

and Richard II. there appears to have been no faction in the councils of regency; but, on the contrary, the misfortunes which the nation then suffered, arose from the implicit consent of the Council to whatever the Regent proposed; and, consequently, from the Regency's becoming sole and sovereign in fact, though it was limited and divided in form and in name. There was indeed a division in the council of regency, during the minority of Henry VI. but it was such a division as a council of regency is intended to produce, an opposition to a violent and imprudent attempt, the establishment of the King of England upon the throne of France, the success of which would have been the greatest calamity that could have fallen upon the nation. In the minority of Edward V. there was no Council, and therefore could be no opposition; but it is indisputably to be wished, that a council had been appointed by act of Parliament before the death of his father, and that some of them at least had vigorously opposed the ambition of Richard III. It is true, that in the government during the minority of Edward VI. there were factions that produced confusion and debility in the state, but this was the effect of his father's folly, who appointed an impracticable government, of which such confusion was the unavoidable consequence. He appointed a Council of sixteen, without any regent or pre-eminence, and another Council of twelve, without whose advice

vice the sixteen were not to act, and none of whom they had power to remove; besides, both of the twelve and of the sixteen, some were Protestants and some Papists, equally zealous, restless, and impotent. The divisions and factions therefore that distressed that minority are, by no means, to be ascribed to the appointment of a Council of Regency, but to the non-appointment of a Regent, and the injudicious choice of a Council, both with respect to its form and the members of which it consisted. It does not therefore appear that the fear of factions in such a council of regency as is appointed by this bill, is justified by experience, and if not justified by experience, it cannot be supported by reason; for, as mankind in general are the same, act by the same principles, and fall by the same temptations the future is the best inferred from the past, and no better arguments can be advanced for the probability of a future event, than that it has happened before; so that reason as well as experience is in favour of the bill; for, if factions have not been the consequence of former Councils of Regency, it is improbable they should be the consequence of this.

4. The restrictions in the bill are such only as a wise and good Sovereign would lay upon himself; for, it cannot be believed that such a Prince would either make peace or war, prorogue or dissolve parliaments, or remove or appoint any great officers

cers of state, or Bishops, or Judges, whose places continue for life, without the advice of his council. And the power of the Council of Regency is merely restrictive. They cannot meet but when called by the Regent, nor, when met, can they take any thing into consideration that is not by the Regent laid before them; their resolutions are ineffectual without her concurrence, and their dissent to any useful measure may be over-ruled by Parliament, as upon the address of both houses, the whole Council, or any of its members may be removed.

5. This bill is rendered absolutely necessary by a defect in our constitution, which his Majesty, no doubt, intended to obviate, by proposing to the consideration of his Parliament the making a proper provision for the regular administration of government, if his successor should be a minor; for the King is never supposed to be a minor by the law; but, upon his accession to the throne, becomes immediately invested with sovereign authority, and the whole executive power lodges in his hands, though an infant of but a month old: the consequence of which is, that he who, by whatever means, gets possession of the infant's person, is eventually possessed of regal authority and prerogative. And it was by this defect, that the Duke of Gloucester, afterwards Richard III. intruded upon sovereign power, and perverted it to the destruction of those from whom it was derived. It is indeed enacted by the stat. 8 King William,

William, that upon the demise of the sovereign the Parliament shall meet, and that the session shall continue six months ; but it is immediately added, unless the same shall be sooner prorogued or dissolved by the next heir to the crown, without any exception to exclude an infant, though of but a day old : so that if an infant be the next heir, whosoever shall be in possession of his person, may effectually prevent the Parliament from acting, by dissolving or proroguing it as soon as it is met ; and, as the law has not obliged them to call another, they may wait till they have found means to get such a Parliament chosen, as may give its sanction to every act of oppression and usurpation that has taken place, or that may be proposed.

The Parliament therefore cannot be a sufficient check upon a sole Regent, invested with sovereign authority, as its power may so easily be eluded ; nor is this a mere speculative possibility, for the power of Parliament was thus eluded by Richard III. while he was Regent ; and, within one year, he procured such members to be chosen as confirmed his usurpation ; though when the King, his brother, died, there were nine persons * who would legally have succeeded to the crown before him. Nor is there any reason to imagine, that, in future

* Five daughters and two sons of the late King, and a son and a daughter of the Duke of Clarence, who was Richard's eldest brother.

times, the people will have more virtue, or that a Prince who will possess more power and greater revenue will have less interest than Richard.

6. This bill is calculated, not only for the public benefit and for the security of the young King, but for the ease, the safety and honour of the Regent. It is for the security of the Prince and the welfare of the Public, that the Regent is restrained from such acts as could admit of no remedy, if they should appear to have been of pernicious consequence, even by the King himself when he should come at age ; but it is for the honour of the Regent that she is invested with every other branch of sovereign authority ; and though she is restrained from appointing Bishops or Judges, who hold their places for life ; yet she may, by her sole power, appoint much more important officers for the time being, such as the Lord Lieutenant of Ireland, the General of the Army, and the Governors of the Plantations, and many others ; and it is for her ease as well as safety, that a Council is appointed her, because the Regent, as a subject, being still accountable for her conduct, it is of great moment to her, that the consent and approbation of the chief officers of state to every important act of her government should be so authenticated, as that such consent and approbation may easily be made to appear for her justification, if any measure which shall be taken during her administration

ministration should be attended with unhappy consequences.

Upon the whole it is to be observed, that the opposition to this bill, as restraining the power of the Regent by a Council, and the zeal of many who are the known friends of liberty, for entrusting the Princess Dowager of Wales with a sovereign and unlimited authority, will stand upon record among many other undoubtable evidences of his Majesty's wisdom, and the distinguished merit of that most excellent Princess whom he recommended: and that the placing the confidence in her Royal Highness was objected to for no other reason, than because it was thought to be inconsistent with the British constitution, to afford a precedent to posterity, which might hereafter be fatal to some of her Royal Highness's descendants, and to deprive her administration of a sanction which would at once add weight to her authority, wisdom to her Councils, and security to her person.

The Sum of the Arguments against the Regency Bill.

1. THE principal objections to the restrictions of the power of the Regent are, indeed, built upon the confessed public and private virtues of her
 Royal

Royal Highness, and the necessary connection of her interest with that of her son; and for this reason they are not to be shaken by the batteries of declamation, or sapped by the mines of sophistry. That the appointing a Princess, thus qualified, sole Regent with sovereign power is the immediate interest of the nation, no man has yet ventured to deny; and by what argument can it be proved that the immediate interest of the nation ought to be given up for a remote possibility? a possibility that some future generation may be so weak, or so corrupt, as to make no new provision for a new exigency, in which, except the minority of the King, every circumstance shall be different? It cannot be supposed that the regulation which the present Parliament is about to make will restrain all future Parliaments from the same exercise of their power. And it is an insult upon human understanding to insinuate that, by a natural succession of events, the power which may now be intrusted with her Royal Highness, shall of course devolve upon future Regents, as the power of an absolute monarch flows from tyrant to tyrant in an uninterrupted and hereditary descent. On the contrary, if that reasoning which is derived from facts, is least subject to fallacy and error, it is so far from being probable that this precedent will always be followed in time to come, that it is probable it will never be followed at all; for it appears from our histories that no two regulations for the administration of government during

a minority are alike, nor is it now expedient to pay any regard to what has been done on these occasions in times past.

It has been said, that no reason could be given for departing from this precedent, even though the Regent to be appointed should be so circumstanced as to endanger the right of the minor; but there is no cause to imagine that any future Parliament will be so infamous for prostitution or timidity, as not to declare to such person that it is an established maxim of this government, that faction is less to be dreaded than usurpation; and therefore that, notwithstanding his personal merit, he cannot be invested with sovereign authority, because he stands next in the line of succession, or because his power, his influence, or his popularity, have given him an elevation equally formidable and illustrious. But if it be granted that this bill will descend as an inviolable law, from which, upon no exigency, the legislators of futurity shall dare to depart, the reasons against it become still more numerous and more cogent. It is a precedent for violating the constitution by dividing the prerogative; for the executive power is the prerogative of one, and not the joint privilege of many; and if future attempts to change the constitution shall be supported by the solemn sanction of this bill, the deference that shall be paid to it by posterity will ensure the success of
sedition,

sedition, and overturn the legislature by dividing itself against itself.

2. That a minority has often produced confusion and calamity is true; but it is probable that this confusion and calamity will rather be increased than prevented by the immediate intervention of a general law, by which the same regulation is to be established, however circumstances may differ. The dangers of a minority, on the contrary, can only be obviated by adapting the regulation to the particular exigencies of the state, the character of the Regent, the influence of parties, and the factions of the court; circumstances which, as they may be infinitely varied, must render different measures expedient, which precedent cannot possibly direct, and which no general regulation can supply. Nor is it less absurd to establish, at this time, a law which shall take place in all future minorities, than it would be in a physician to prescribe a medicine to be administered in all future diseases which might be contracted by his patient, though some other might be much better adapted to remove his present malady. To suit an administration to particular national circumstances, seems at least to have been attempted in all the minorities that have already happened, by the great difference of the forms of government that have been at different times established on these occasions. The Earl of Pembroke was appointed sole Regent with little less

less than sovereign authority; the Bishop of Winchester sole Regent, but subject to a chief justiciary, which he could not remove; a Council of Regency was next appointed without a Regent; three joint Regents were afterwards appointed with a Council; then two Protectors with a Council; and, in the last minority, that of Edward VI. there was a Council of Regency without a Regent, subject to the controul of another Council: so that a kind of general precedent results from all these regulations, that of acting as the case requires, without any regard to former appointments, which were, and must necessarily have been, temporary and particular.

3. It has been asserted, by the advocates for the bill, that a Council of Regency will not expose the nation to the misery of contending factions; and great pains has been taken to shew that the dread of these factions is not justified by experience. But there is no need to examine the transactions of Edward III. Richard II. or Henry VI. to determine the question; other facts, that are too notorious to be doubted, and too recent to be forgotten, sufficiently justify these fears; and if what shall be, is best inferred from what has been, no doubt can remain of the confusion that must arise from the strife of many for distinction or for power, which only one can obtain. There have been resignations and combinations to resign, insolent and
infamous

infamous expedients to compel a sovereign into the measures of dependents whom his nod might have dismissed to insignificance and contempt. And from those who have insulted their Prince, and been known to have risked the ruin of their country, to render the projects of a rival abortive, what might not be dreaded when they know that they cannot be removed but by time, and that without their concurrence in every motion the whole mechanism of government must stand still? If among the members of a Council, the creating commissioners of a turnpike, and the appointment of a clerk to a court of conscience, having produced discord, debate, and animosity, it is absurd to imagine that in the filling great employments with persons of high rank, and the conferring of places that are to be held for life, they should be less factious, or that they would espouse opposite interests with less ardour and obstinacy? But the strength of these objections is supposed to be evaded by alleging, that though factions in such a Council may possibly produce some degree of confusion and debility in the state, yet faction is less likely to overturn the constitution than usurpation; and it is taken for granted that from the danger of usurpation we are effectually secured by this bill. But by this bill the royal power is not limited, it is divided; and it will appear, from our histories, that every attempt to divide the royal power has proceeded with confusion, and terminated in tyranny.

When

When the royal power was divided by the will of Henry VIII. after a few struggles in the toils of an impracticable government, the Duke of Somerset usurped the sole Regency with sovereign power : this usurpation precipitated his ruin, and the Earl of Northumberland succeeded, by the same means, to the same power, in which he was scarce established before he formed a scheme to place the crown upon the head of his son, and gave strong reason to suspect, that he was accessory to the death of his ward ; an event, however, which admitted Mary to the throne, who at once put an end to his projects and his life. A like impracticable scheme of government is now about to take place, and will probably produce the like effects. Fourteen Kings are substituted in the stead of one, and as they cannot be supposed to concur in the same measures, after the power and the influence of each has been ascertained in the struggle, the weaker will naturally desist from a hopeless attempt, and the ambition of the stronger will have no other obstacles to surmount. It may indeed be objected, that in these suppositions no notice is taken either of the Regent or the Parliament, both of whom are supposed to be a check upon an aspiring individual, or a factious majority in the Council. But to this objection the answer is easy ; no notice is taken of the Regent, because it is evident that she can be no more than a cypher, nothing being more certain than that the majority of the Council will unite against her, especially

especially as by the bill that majority is provided with a head ; and as she cannot govern without them, she must of necessity suffer herself to be governed by them : as to the Parliament, the time has been, and probably may be, in which Parliaments have been under ministerial influence. It is therefore not impossible that a factious majority in the Council of Regency may be supported by a factious majority, at least in one house. It will then be impracticable for the Regent to dissolve either combination, because no member of the Council is to be removed but upon the address of both Houses, nor is the Parliament to be dissolved but by the consent of the majority of the Council : but this is not all, for it is evident that the Regent may, in these circumstances, be compelled to dismiss from her Council whoever is not in the combination ; and thus the danger of an usurpation is evinced, almost to a demonstration ; for whoever is at the head of the confederacy, in which the whole Council will be absorbed, must almost insensibly become invested with sovereign power, and, by an easy transition, become absolute and despotic. This bill therefore is not adapted to prevent that mischief, in the fear of which every positive good is confessedly given up, and every other evil is incurred.

4. It has been said, that the restraint which is laid upon the Regent is such only as a wife and

G

good

good sovereign would lay upon himself; with respect therefore to her Royal Highness, whose goodness and wisdom have never yet been disputed, they are unnecessary; but the terms that have been used upon this occasion are equivocal and evasive; for there is surely a wide difference between a Sovereign who takes the advice of his Council, with respect to important transactions, of the fitness of which he is finally to judge, and which are either to be suspended or executed as he alone shall determine; and a Regent to whom the will of this Council must eventually give law; who can pursue no measure of moment in which they do not concur, and who cannot remove them, however insolent, arbitrary, or capricious, however wanton in the power they possess, and however negligent in the duties which they owe. As the power of the Council is not merely restrictive, neither is it true that they cannot meet but when called together by the Regent, or take any subject into consideration which is not by her laid before them; for of this Council a president is appointed, and the office of a president is to call a Council together, and to propose such subjects as he thinks proper to their consideration. The bill indeed says, that they shall meet when her Royal Highness shall please to direct; but there are no words to prevent their meeting without her direction, nor any by which she is impowered to put an end to their meeting; neither is there any clause to
restrain

restrain them in the subjects of their consideration ; the Regent appears to have no right to be present at their deliberations, and they seem to be empowered not only to deliberate, but to act without her concurrence ; for it is expressly said, that “any five shall be sufficient to act, and that the acts of such five shall be deemed to be acts of the Council of Regency.” The Regent therefore does not appear to have always even a negative voice, but as the dissent of the Council to any useful measure can only be over-ruled by the address of both Houses, their influence will probably secure them in the possession of their power.

5. Among other reasons which industrious fallacy has suggested in defence of this bill, the most pompous and the most plausible is, that a certain defect in our constitution has made it absolutely necessary. It is said, that by the law the king is never supposed to be a minor, and that though he be but a month old, whoever gets possession of his person becomes consequently invested with the whole executive power, and may dissolve the Parliament which, by the 8th of King William, is appointed to meet on the demise of the king, and thus secure himself in the possession not only of sovereign but of arbitrary power. This however is far from being a true state of the case ; for even before the establishment of a House of Commons, the whole legislative power being lodged in the

King and the Barons, when a minority happened the government did not devolve upon those who had possessed themselves of the King's person, but upon the Barons, or such as they should appoint ; * and when an House of Commons became a third part of the legislature, the regulation of the Barons was not final, but lasted only till it was confirmed by Parliament. From the conquest to the 8th of King William III. there does not therefore appear to be any such dreadful defect in the constitution as is pretended : a new regulation was then made, and upon the demise of the King the Parliament then in being, or the last preceding Parliament, was appointed to meet and sit six months ; nor can such Parliament be prevented from acting by any who shall get possession of the person of the minor ; for the words, " unless the same shall be sooner prorogued or dissolved by the next heir to the crown," plainly suppose the minor to come of age within six months after the demise of his predecessor, because his capacity to act is implied, and a minor has no such capacity ; but if any subject, however great by his station or by his birth, should, in the rashness of his ambition, dare to prorogue or dissolve the Parliament in the name of a minor, before they had settled a Regency, it is much more probable that they would send him to the Tower, than that they would separate ; and it is to be hoped that every gentleman

* See the History of Henry III,

who has been present at the debate is of this opinion. How the power of Parliament was eluded by Richard III. it is not necessary to inquire, because subsequent statutes have made the same methods impracticable; so that the putting an end to one Parliament, and the delaying to call another, till such an one can be procured by undue influence as shall confirm an usurpation, are chimerical dangers which subtilty has displayed to terrify those whom she could not convince; as the head of Medusa was held up to petrify an enemy, whom force was wanting to subdue.

6. Upon the whole this bill is not calculated for public benefit, because it must necessarily produce faction, by which the administration of the government will be either stopped or impeded; not for the security of the young King, because it will rather facilitate than prevent an usurpation; not for the benefit of posterity, because to follow it as a precedent will be absurd and pernicious; and not for the honour of the Regent, because she is restrained from the voluntary exercise of her virtues; her want of inclination to do ill is absorbed in her want of power, and she can be considered only as an instrument in the hands of others who have sacrificed her glory to the continuance of their own importance. It is indeed pretended that the governments abroad, the army, the navy, and many important ecclesiastical and civil employments, are
in

in her disposal: but this is true only in appearance; for, in fact, she can dispose of no employment, the patent, commission, or warrant for which must pass the great or privy seal, or be countersigned by any of the great officers whom she cannot remove; and few other places are in her gift. The security of her person is another compliment paid her by this bill; but her person would have been secured by her sagacity and her virtue; or, supposing these to have been insufficient, it is not easy to conceive that any benefit is conferred, when, to prevent the consequences of acting wrong, a person is restrained from acting at all; or that he who takes away honour deserves thanks for conferring safety.

Wednesday, May 22, 1751.

His Majesty went to the House of Peers and gave his Assent to

“A Bill * for providing for the Administration of the Government, in case it should descend to any of the Children of his late Royal Highness the Prince of Wales under the Age of Eighteen, and appointing a Guardianship for the Care of their Persons.”

* By the third clause of this bill, which occasioned a strong debate, his Majesty is authorized to add four members to the Council of Regency, besides those mentioned in the message presented to both Houses; and his Royal Highness the Duke of Cumberland is appointed President of the said Council.—There were present at the third reading in the House of Peers 220 of that noble body,

